

 <div style="text-align: center;"> <b>ADMINISTRATIVE REGULATIONS</b>   <b>STATE OF ARKANSAS</b>   <b>BOARD OF CORRECTIONS</b> </div>	<b>Section Number:</b>  <div style="text-align: center;"><b>1316</b></div>	<b>Page Number:</b>  <div style="text-align: center;"><b>1 of 2</b></div>
	<b>Board Approval Date:</b>  <div style="text-align: center;"><b>7/11/2003</b></div>	
	<b>Supersedes:</b>	<b>Dated:</b>
	<b>Reference:</b>	<b>Effective Date:</b> 7/25/03
<b>SUBJECT: Emergency Powers Act – County Jail Backlog</b>		

**I. AUTHORITY:**

The authority of the Board of Corrections to promulgate this Administrative Regulation is vested in Act 50 of 1968, First Extraordinary Session, as amended; Act 418 of 1987, Regular Session; Act 684 of 1991, Regular Session; Act 1721 of 2003, Regular Session, and A.C.A. 12-28-601 - 12-28-606.

**II. PURPOSE:**

To establish the policy by which the Board of Corrections may, when the county jail backlog exceeds 500 inmates, release eligible inmates from the Department of Correction prior to their normal release date.

**III. APPLICABILITY:**

The Board of Corrections; all departmental employees, especially those involved in release processing; and all inmates.

**IV. DEFINITIONS:**

- A. County backlog: Inmates sentenced to the Arkansas Department of Correction that are being housed in the county jails until space is available in the prison.
- B. Discharge: The unconditional release of an inmate or person on release supervision upon the expiration of a sentenced term of years pursuant to Arkansas codes.
- C. Eligible Inmate: Class I or Class II inmates, convicted of non-violent offenses, who are eligible for parole, transfer or discharge and not serving a legislatively mandated 70% or more sentence, who have been incarcerated in a Department of Correction facility for a minimum of six (6) months.

**V. POLICY:**

It shall be the policy of the Department of Correction and the Board of Corrections to review the inmate population of the Department and, at the Board's discretion, invoke the Emergency Powers Act based on a county backlog exceeding 500.

**VI. PROCEDURES:**

Overcrowding based on county jail backlog.

- A. When the board declares a prison overcrowding state of emergency due to the county jail backlog exceeding five hundred (500) inmates and notifies the Director of the Department of Correction of the emergency as authorized, the director shall certify to the board a list of those eligible inmates who are in Class I or Class II status who have been incarcerated in a Department of Correction facility for a minimum of six (6) months and are serving a sentence for a nonviolent offense as established by the Board of Corrections and the director shall indicate which eligible inmates he or she recommends.
- B. The listed inmates shall be those who, if authorized, would have their parole eligibility, transfer eligibility, or discharge dates moved up to a point where they would immediately be eligible for parole, transfer, or discharge.
- C. Upon the receipt of the list of eligible inmates certified by the director, the board is authorized to move up the projected parole eligibility, transfer eligibility, or discharge dates of any or all eligible inmates on the list by up to one (1) year.

AR1316  
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**Non-Eligible List AR 1316**  
**Emergency Powers Act - County Jail Backlog**

Statute #	Class	Offense	Statute #	Class	Offense
5-28-103	B	Abuse of Adults	5-54-117	C	Furnishing Implement for Escape
5-28-103	C	Abuse of Adults	5-54-117	D	Furnishing Implement for Escape
5-28-103	D	Abuse of Adults	5-54-118	C	Furnishing Implement for Unauthorized Departure
5-13-204	D	Aggravated Assault	5-26-202	C	Incest
5-26-304	D	Aggravated Assault on Wife I	5-71-203	D	Inciting Riot
5-71-202	D	Aggravated Riot	5-11-102	Y	Kidnapping
5-12-103	Y	Aggravated Robbery	5-11-102	B	Kidnapping
5-71-204	B	Arming Rioter	5-14-123	A	Knowingly Exposing Another to HIV
5-13-201	B	Battery I	5-10-104	C	Manslaughter
5-13-202	D	Battery II	5-64-401	Y	Manufacture of Methamphetamine
5-14-104	B	Carnal Abuse I	5-10-102	Y	Murder I
5-14-105	D	Carnal Abuse II	5-10-103	B	Murder II
5-38-202	Y	Causing a Catastrophe	5-10-105	D	Negligent Homicide
5-64-414	Y	Continuing Criminal Enterprise	5-11-106	C	Permanent Detention
5-73-108	B	Criminal in Possession of Explosives	5-11-106	D	Permanent Detention
5-73-104	B	Criminal Use of Prohibited Weapons	5-27-221	C	Permitting Child Abuse
5-73-104	D	Criminal Use of Prohibited Weapons	5-54-113	C	Permitting Escape I
5-71-210	D	Cumulating False Alarm	5-73-211	U	Perpetrating Crime w/Machine Gun
5-74-107	Y	Discharge of a Firearm from Car	5-73-103	D	Possession Firearm by Certain Persons
5-74-107	B	Discharge of a Firearm from Car II degree	5-64-403	B	Possession of Drug Paraphernalia with intent to manufacture Methamphetamine
5-27-402	C	Employ/Authorize Child <17 sexual performance (First offense)	5-73-103	B	Possession of Firearm By Certain Person
5-27-402	B	Employ/Authorize child <17 sexual performance (subsequent offense)	5-73-119	D	Possession of Handgun on Public School Property or Bus
5-27-203	D	Endangering Welfare of a Minor I	5-27-403	B	Produce?Direct Sexual Performance Child <17
5-27-201	D	Endangering Welfare of Incompetent I	5-71-302	C	Promoting Civil Disorder I degree
5-27-303	B	Engaging Child in Sex Explicit (Subsequent Offense)	5-70-104	D	Promoting Prostitution I degree
5-27-303	C	Engaging Child in Sex Explicit 1st degree	5-14-103	Y	Rape
5-74-104	B	Engaging in Continuing Gang Org or Enterprise (2nd degree)	5-38-311	U	Setting a Fire w/Intent to let Escape
5-74-104	C	Engaging in Continuing Gang Org or Enterprise (2nd degree)	5-14-108	C	Sexual Abuse I
5-74-104	B	Engaging in Continuing Gang Org. or Enterprise 1st degree	5-14-124	A	Sexual Assault 1st Degree
5-74-104	Y	Engaging in Continuing Gang Org. or Enterprise 2nd degree	5-14-125	B	Sexual Assault 2nd Degree
5-74--104	A	Engaging in Continuing Gang Org. or Enterprise 2nd degree	5-14-126	C	Sexual Assault 3rd Degree

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5-74-104	Y	Engaging in Continuing Gang, Org or Enterprise	5-74-106	Y	Simultaneous Possession of Drugs and Firearms
5-74-104	A	Engaging in Continuing Gang, Org or Enterprise I	5-74-203	C	Soliciting a Minor to Join a Gang I offense
5-54-110	C	Escape I	5-74-203	B	Soliciting a Minor to Join a Gang II offense
5-54-111	D	Escape II	5-71-229	B	Stalking First Degree
27-53-101	D	Failure to Stop After Accident w/Injury or Death	5-71-229	C	Stalking Second Degree
5-11-103	C	False Imprisonment I	5-13-310	Y	Terroristic Act
5-54-125	D	Fleeing with Serious Injury	5-13-301	D	Terroristic Threatening I
5-73-129	B	Furnishing Deadly Weapon to Felon	5-71-211	D	Threatening a fire Bombing
5-73-109b	B	Furnishing Illegal Weapon to Minor	5-38-202	D	Threatening to Cause a Catastrophe

**Non-Eligible List AR 1316****Emergency Powers Act - County Jail Backlog**

<b>Statute #</b>	<b>Class</b>	<b>Offense</b>
5-27-304	B	Transportation/Distribution of Material depicting child (Subsequent offense)
5-11-105	C	Vehicular Piracy
5-14-120	C	Violation of a Minor I
5-14-121	D	Violation of a Minor II
5-73-202	U	Violation Uniform Machine Gun Act
5-74-108	Y	Violent Group Activity Enhanced
5-74-108	A	Violent Group Activity Enhanced
5-74-108	B	Violent Group Activity Enhanced
5-74-108	D	Violent Group Activity Enhanced
5-26-301	B	Wife Battering I
5-26-302	D	Wife Battering II